IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

TRC.No. 341 of 2002()

TA.391/1997 OF KERALA SALES TAX APPELLATE TRIBUNAL,
ADDL.BENCH,THIRUVANANTHAPURAM
.....

REVISION PETITIONER/REVENUE/RESPONDENT:

STATE OF KERALA,
REPRESENTED BY DEPUTY COMMISSIONER (LAW),
COMMERCIAL TAXES, ERNAKULAM.

BY SPL.GOVERNMENT PLEADER (TAXES) MR.V.V.ASOKAN

RESPONDENT: ASSESSEE/APPELLANT:

SRI.K.CHELLAPPAN PILLAI, -- (DELETED & SUBSTITUTED)
MADHU BRICKS, VELIYAM.

LAKSHMYKUTTY AMMA, WIDOW OF K.CHELLAPPAN NAIR,
ASAROZHIKATH VEEDU, MEYYANNUR P.O., KOLLAM.

(NAME OF THE RESPONDENT IS DELETED AND SUBSTITUTED IN ITS PLACE THE NAME OF THE LEGAL REPRESENTATIVE OF THE DECEASED ASSESSEE AS PER ORDER DATED 19.6.2007 IN IA NO.2204/2006)

THIS TAX REVISION CASE HAVING BEEN FINALLY HEARD ON 19/06/2007, ALONG WITH TRC NO. 371 OF 2002 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

T.R.C.Nos.341 & 371 of 2002

Dated, this the 19th day of June, 2007

ORDER

H.L.Dattu, C.J.

These revision petitions are directed against the common order passed by the Kerala Sales Tax Appellate Tribunal, Thiruvananthapuram in T.A.Nos.391 and 392 of 1997 dated 22nd February, 2001 for the assessment years 1994-95 and 1995-96.

2. The revenue has raised the following questions of law for our consideration and decision. They are as under:

> "A. Is not the Tribunal in error in not following the decision of the Supreme Court reported in 124 STC 233 which upheld the findings of the Tribunal that "What has been given exemption in SRO 499/90 is the turnover of goods taxable at the point of last purchase in the State?
>
> B. Were not the decisions of the Tribunal and the 1st appellate authority in determining the turn over of bricks and estimation in error as they have not properly applied the mind in these findings."

3. The Tribunal while disposing of the appeals filed by the assessee had relied upon a decision of this Court in the case of **Vattukulam Chemical Industries** v**. State of Kerala.**

4. The view expressed by this Court in the aforesaid decision is now reversed by the apex Court in the case of **State of Kerala** v. **M/s.Vattukulam Chemicals Industries** (124 STC 233).

5. In view of the orders passed by the Supreme Court, the revision petitions filed by the revenue requires to be allowed and accordingly they are allowed. The questions of law raised by the revenue are answered in favour of

the revenue and against the assessee.

6. The Registry is directed to send a certified copy of the orders passed by this Court promptly to the respondent. The respondent is at liberty to approach this Court, if for any reason he is aggrieved by the orders passed by this Court. Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns